

COASTAL CONSERVANCY

Memorandum
June 15, 2017

To: Members of the Coastal Conservancy
From: Su Corbaley, Project Manager
Re: Resolution required for the application to the California Natural Resource Agency's Environmental Enhancement and Mitigation Grant Program

RECOMMENDED ACTION: Consideration and possible adoption of a resolution providing the assurances required for the application to the California Natural Resources Agency's Environmental Enhancement and Mitigation Grant Program for the Samoa Dunes and Wetlands Acquisition Project in Humboldt County.

EXHIBITS

Exhibit 1: [EEM Grant Program Guidelines](#)
Exhibit 2: [Project Location Map](#)
Exhibit 3: [Project Letters](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Section 31104 of the Public Resources Code:

“WHEREAS, the Legislature and Governor of the State of California have enacted Section 164.56 of the California Streets And Highways Code establishing the Environmental Enhancement and Mitigation Program Fund (“EEM”), which is intended to provide grant funds to local, state and federal agencies and nonprofit entities for projects to enhance and mitigate the environmental impacts of modified or new public transportation facilities; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program (“EEM Grant Program”), establishing necessary procedures and criteria, and is required to submit to the California Transportation Commission a list of recommended projects from which the grant recipients will be selected; and

WHEREAS, these procedures established by the California Natural Resources Agency (CNRA) require a resolution certifying the approval to file an application by the applicant's governing board before submission of the application to the CNRA; and

WHEREAS, the applicant, if selected, will enter into an agreement with the CNRA to carry out the Project, and

WHEREAS, the Samoa Dunes and Wetlands Acquisition Project seeks to conserve approximately 336 acres of open space that includes coastal dune habitat, wetlands, and coniferous dune forest on the North Spit of Humboldt Bay between the towns of Manila and Samoa.

NOW, THEREFORE, BE IT RESOLVED that the California State Coastal Conservancy:

1. Approves the filing of an application for the Samoa Dunes and Wetlands Acquisition Project; and
2. Certifies that its staff understand the requirements in the EEM Grant Program Guidelines; and
3. Certifies that it will require the project property owner to have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so; and
4. Certifies that it will require the project property owner to record a document against the real property that protects the State's interest in the property; and
5. If applicable, certifies that it will require the sub-grantee to comply with the provisions of the State Labor Code regarding payment of prevailing wages on projects awarded EEM Grant Program Funds; and
6. If applicable, certifies that it will require the sub-grantee to comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable licenses and permits will have been obtained; and
7. Certifies that the Conservancy will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and
8. Appoints the Executive Officer, or his designee, as agent to accept funds received from the EEM Grant Program, conduct all negotiations, execute and submit all documents including, but not limited to applications, grant agreements, payment requests etc., which may be necessary for the completion of the aforementioned project."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the Conservancy's statutory authority under Division 21 of the Public Resources Code.
2. The proposed project for which funds are sought is consistent with the current Conservancy Project Selection Criteria and Guidelines."

PROJECT SUMMARY:

Background: Conservancy staff intends to submit a grant application to the Environmental Enhancement and Mitigation (“EEM”) Grant Program for the Samoa Dunes and Wetlands Acquisition Project, discussed in detail below. The EEM Grant Program Guidelines require that each grant applicant submit a resolution from its governing board to accompany its grant application (see Exhibit 1). The resolution must approve filing of the application and provide the assurances as set forth in the RESOLUTION AND FINDINGS section of this memorandum. Staff has reviewed the EEM Grant Program Guidelines and understands the requirements of these guidelines. If awarded the EEM grant, the Conservancy will be able to impose the grant conditions required by the guidelines. The required resolution includes the Conservancy’s assurance that it will work towards the Governor’s State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1. This certification is appropriate because Government Code Section 65041.1(b) declares that one of the State’s planning priorities is:

To protect environmental and agricultural resources by protecting, preserving, and enhancing the state’s most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space, and landscapes with locally unique features and areas identified by the state as deserving special protection.

The Conservancy’s work in general is consistent with this state planning priority, and the specific project discussed below is consistent with the priority in that it will result in the protection of natural lands and open space. Thus, each of the assurances required to apply for and receive EEM grant funds is appropriate and staff recommends that the Conservancy adopt the resolution.

If the Conservancy successfully procures EEM grant funds for the project, the funds will not be disbursed until future Conservancy authorization has been obtained for their disbursement. The project is discussed in detail below.

Samoa Dunes and Wetlands Acquisition Project

The Samoa Dunes and Wetlands Acquisition Project is located on the North Spit of Humboldt Bay between the towns of Manila and Samoa (Exhibit 2). The 336-acre property includes one mile of Pacific Ocean coastline and is comprised of near-shore coastal dune habitat, wetlands and coniferous dune forest. The dune system’s complex of habitats are home to numerous rare, threatened, endangered and protected species including Humboldt Bay wallflower, beach layia, dark-eyed gilia and American glehnia; the rare White-footed vole; neotropical bird migrants including Swainson’s thrush and Osprey; California red-legged frog and Pacific tree frog; and numerous waterfowl.

The property is currently for sale on the open market, but the owner is willing to sell the property at the fair market value as established in an appraisal approved by the California Department of General Services. Acquisition of the property will protect the 336 acres of open space and wildlife habitat in perpetuity and allow for passive recreation and education uses. The project is a collaboration between the Conservancy, the Humboldt Bay Harbor, Recreation and Conservation

District, the California Department of Fish and Wildlife, the US Department of Interior Bureau of Land Management, and the private landowner.

The Samoa Dunes and Wetlands Acquisition Project is an excellent candidate for the EEM grant program. In addition to mitigating the adverse impacts to wetlands from a nearby regional transportation facility (“RTF”) – the Eureka-Arcata Route 101 Corridor Improvement Project, the acquisition project will protect unique coastal dune habitat that includes: approximately 74 acres of wetlands (9 acres palustrine shrub, 56 acres palustrine forested, and 9 acres estuarine emergent), 84 acres of open dunes (endangered plant habitat), and 139 acres of coniferous forest (including the southern-most occurrence of Beach pine-Sitka spruce forest in the U.S). The project is adjacent to over 1000 acres of contiguous protected dunes; the wetland and forest areas will provide for functional connectivity between habitat types on the North Spit. The conservation of this dune system would promote the recovery of the coastal dune ecosystems by providing important refugia for endangered coastal plants and other associated species, while also offering important opportunities for education and passive recreation.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

Section 31104 of the Public Resources Code authorizes the Conservancy to apply for and accept external grants and other financial support from public and private sources.

The project is eligible for a Conservancy grant. The project could be undertaken pursuant to Chapter 8 of the Conservancy’s enabling legislation, Public Resource Code Sections 31350-31356, regarding reservation of significant coastal resource areas.

The proposed acquisition of property interests is consistent with the legislative intent expressed in section 31350 because the project will help to acquire and protect key coastal resource lands that would otherwise be lost to public use through potential subdivision. Consistent with Section 31351(a), this project is the result of Conservancy cooperation with the Humboldt Bay Harbor, Recreation, and Conservation District (District), a public agency, and will ensure the reservation of real property interests for wildlife habitat protection, open space preservation and recreation, all of which meet the policies and objectives of the Coastal Act.

Consistent with Section 31352(a)(1), the Conservancy may assist the District by providing a grant to acquire the property interests because the District’s limited financial resources prohibit it from acquiring the property on its own. The acquisition cannot occur without the Conservancy’s financial support because of the significant costs of this property due to its development potential and the limited grant funds available to the District for such acquisitions. Conservancy staff are submitting the grant application to the EEM Grant Program to provide technical assistance to the District, consistent with 31352(b).

Thus, the proposed funding authorization is consistent with Chapter 8 in that it protects a key coastal property that otherwise would be lost to public use; the acquisition serves several purposes of Division 21; and it protects important natural resource habitats, open space and recreation consistent with the policies and objectives of the California Coastal Act.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on June 25, 2015 in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** The EEM Grant Program funds projects that contribute to the mitigation of the environmental effects of RTFs. Staff has identified a RTF nearby the Samoa Dunes and Wetlands Acquisition Project, analyzed the adverse environmental impacts of the RTF and determined that the acquisition project will help mitigate these negative impacts. The proposed project is thereby consistent with the EEM Grant Program.
3. **Promotion and implementation of state plans and policies:** By securing property interests that will protect natural coastal resources, the proposed acquisition project serves to promote and implement the following state plans:
 - *California @ 50 Million: The Environmental Goals and Policy Report* (Governor's Office of Planning and Research, (2015), which implements the Governor's State Planning Priorities discussed above: Key Action #6 of the "Preserve and Steward State Lands and Natural Resources" section calls for building resilience into natural systems and prioritize natural and green infrastructure solution.
 - *California Wildlife Action Plan, 2015 Update* by furthering the following statewide-recommended actions: d) state and federal agencies should work with cities and counties to secure sensitive habitats and key habitat linkages; and g) federal, state, and local agencies and nongovernmental conservation organizations, working with private landowners and public land managers, should expand efforts to restore and conserve riparian communities. In addition, recommended actions for the marine region include: d) the state should increase efforts to restore coastal watersheds.
 - *Coastal Act (1976)* Public Resources Code Section 30240 requires environmentally sensitive habitat areas be protected against any significant disruption of habitat values.
4. **Support of the public:** Support letters are included in Exhibit 3.
5. **Location:** The proposed project is located within the coastal zone of Humboldt County.
6. **Need:** The EEM grant is crucial to leveraging several potential funding partners for the acquisition project.
7. **Greater-than-local interest:** The Samoa Dunes and Wetlands Acquisition project is adjacent to over 1000 acres of a publicly protected coastal dune system. The project is of statewide significance because of the landscape-level linkages, biodiversity conservation and sensitive species habitat it will protect. Visitors come from around the globe to experience Humboldt coastal dune systems.

8. **Sea level rise vulnerability:** The Samoa Dunes and Wetlands project is located in an area vulnerable to sea level rise due to its location at the edge of Humboldt Bay and the Pacific Ocean. Protecting the property from development will ensure that the wetlands will absorb and diffuse floodwaters and reduce flooding of Highway 255. Preserving the standing Sitka Spruce forest will maintain canopy for birds and forage for animals and preserving the upland dune habitat will make it available for the migration of coastal wetlands as sea level rises.

COMPLIANCE WITH CEQA:

Under the California Environmental Quality Act (CEQA), a “project” consists of an action that may cause either a direct physical change or a reasonably foreseeable indirect change in the environment; and that is an activity directly undertaken or funded by a public agency, or an activity that involves the issuance of a permit or other entitlement. (Public Resources Code Section 21065). The CEQA Guidelines further define the term “project” and confirm that it does not include administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal Code Regs. Section 15378(b)(5)). Adoption of the proposed resolution itself is an administrative activity that does not have the potential to cause a physical change to the environment.

However, the resolution seeks to garner funding for the acquisition of Samoa dunes and wetlands. To the extent the proposed acquisition of the Samoa Dunes and Wetlands property may be construed as part of this authorization, it is categorically exempt from the provisions of CEQA pursuant to 14 Cal. Code of Regs. §15325 as a transfer of ownership of interests in land in order to preserve open space and existing natural conditions, including habitat. The exemption explicitly includes acquisitions to allow restoration of natural conditions, to prevent encroachment of development into flood plains, and to preserve open space or lands for park purposes (Section 15325, subsections (c), (d) and (f)). The acquisition purpose is consistent with these examples. Upon approval, staff will file a Notice of Exemption.